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TO AMEMBASSY PORT AU PRINCE PRIORITY

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E.O. 11652: N/A

TAGS: EFIN, EIND, HA

SUBJECT- DUPONT CARIBBEAN: MEETING WITH DON PIERSON

REF: PORT-AU-PRINCE 1601, 1602, 1620

1. DEPT COMMENDS EMBASSY FOR VERY DETAILED AND THOUGHTFUL REVIEW IN REFTELS OF COMPLICATED SITUATION IN DUPONT CARIBBEAN (DCI) CASE. THIS PROVED VERY USEFUL IN SEPARATE MEETINGS DEPT OFFICIALS HELD WITH DCI PRESIDENT DON PIERSON AND TRANSLINEAR PRESIDENT WILLIAM CARDEN ON AUGUST 22.

2. MEETING WITH PIERSON REVIEWED HIS CLAIMS AGAINST GOH, STEPS HE HAD TAKEN TO DEFEND HIS INTERESTS, AND HIS REQUEST FOR ASSISTANCE FROM USG. FOLLOWING POINTS WERE DEVELOPED.

A. COUNSEL. PIERSON MAINTAINED THAT GOH PREVENTED HIM FROM OBTAINING EFFECTIVE LEGAL COUNSEL. HE CLAIMED

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THAT ON FOUR OR FIVE OCCASIONS HE HAD REACHED AGREEMENT

WITH LAWYER TO REPRESENT HIM, BUT IN EACH CASE THE FOLLOWING DAY LAWYER WITHDREW OWING TO PRESSURE ALLEGEDLY PLACED ON HIM BY HAITIAN AUTHORITIES. FINALLY, AFTER APPROACH TO GOH BY US EMBASSY, HE WAS ABLE TO CONTRACT GERALD MERCERON, WHO WAS RECOMMENDED TO HIM BY A TEXAN. HE STATED MERCERON INFORMED HIM HE WOULD ACT AS HIS LAWYER

BUT THAT BASIC PROBLEM WAS POLITICAL AND AT TIMES HE WOULD BE UNABLE TO EFFECTIVELY REPRESENT HIS INTERESTS BECAUSE OF SITUATION IN HAITI. PIERSON CLAIMED THIS DENIED HIM ADEQUATE REPRESENTATION OF HIS OWN CHOICE. HE ALSO CLAIMS THAT GERARD NOEL ACTED AS A VOLUNTEER AND DID NOT REPRESENT DCI AT MARCH 1 HEARING FOR RESTRAINING ORDER, THAT PIERSON HAD NEVER MET HIM AT TIME OF HEARING. SUBSEQUENTLY, THEY DID MEET, NOEL DID SOME WORK FOR HIM AND HE WAS PAID FOR LEGAL SERVICES.

B. TRIAL JUDGE. PIERSON CLAIMED CIVIL COURT JUDGE JEAN DAVID KALIM TOLD HIM AT TIME OF APPELLATE COURT HEARING OR DECISION THAT HE (KALIM) WAS BEING CRITICIZED BY HIS HAITIAN ASSOCIATES AND OTHERS FOR HIS DECISION IN CASE AND THAT HE WANTED PIERSON TO KNOW THAT TEXT OF DECISION IN CIVIL CASE HAD BEEN GIVEN TO HIM BY AUTHORITIES TO SIGN. PIERSON STATED THAT A NUMBER OF HAITIANS WERE WITNESS TO THIS STATEMENT, BUT AMONG THEM HE COULD ONLY RECALL GUY BONHOMME.

C. NOTICE. PIERSON REITERATED THAT HE HAD ONLY ONE DAY NOTICE FOR TEMPORARY INJUNCTION ORDER HEARING MARCH 1, 1973, THAT SIMILAR INSUFFICIENT NOTICE WAS GIVEN TO HIM FOR CIVIL COURT HEARINGS JUNE 25 AND JULY 9; HE WAS IN US FOR LATTER HEARINGS AND HAD ONLY 24 HOURS' NOTICE. HE ADMITTED PROVIDING LITTLE GUIDANCE TO HIS LAWYER, BECAUSE, HE STATED, HE FELT THIS WAS A "KANGAROO" PROCEEDING AND BECAUSE HIS LAWYER DENIED THAT SUCH PROOFS AS COPIES OF CABLES CALLING FOR FREEPORT BOARD MEETINGS HAD EVIDENTIARY VALUE. PIERSON'S REPLIES TO COMMENTS ON POOR QUALITY OF SOME OF HIS EVIDENCE WERE VAGUE.

D. PLEADINGS. PIERSON HAS BEEN ASKED TO HAVE LIMITED OFFICIAL USE

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LAWYER MERCERON PROVIDE TO EMBASSY OR THROUGH HIM TO DEPT COPIES OF HIS PLEADINGS FOR CIVIL AND APPEALS HEARINGS. (QUESTION FOR EMBASSY: ARE STENOGRAPHIC RECORDS KEPT OF CIVIL COURT TRIALS?)

E. HAITIAN COMPLAINT. WHILE SOME OF PIERSON CLAIMS APPEAR WEAK OR ARE QUESTIONABLE, BURDEN OF PROOF WAS ON GOH TO SHOW DCI FAILURE TO PERFORM. PIERSON CLAIMS

NEVER TO HAVE SEEN GOVT'S EVIDENCE. FOR THIS REASON IT IS IMPORTANT TO HAVE MATERIALS REQUESTED OF GOH ORALLY BY AMBASSADOR AND BY AMBASSADOR'S LETTER OF AUGUST 16, 1974.

F. PIERSON'S SUBSTANTIVE CONTENTIONS.

(1) ISSUANCE OF STOCK IN PAYMENT FOR SERVICES.

PIERSON DENIED THAT THIS IS GERMANE. WHETHER SHARES ISSUED FOR PAYMENT OF MONEY OR FOR SERVICES PERFORMED FOR TORTUGA PROJECT AMOUNTS TO SAME THING.

(2) FAILURE TO MARKET SHARES. PIERSON CLAIMED THIS REPRESENTS ANTONIO ANDRE'S FAILURE TO UNDERSTAND NATURE OF CONTRACT AND BUSINESS PRACTICES. DCI HAD 99 YEARS TO MARKET STOCK; THERE WAS NO IMMEDIATE OBLIGATION AND THE LONGER THIS WAS DELAYED WHILE ISLAND DEVELOPED THE HIGHER PRICES SHARES WOULD COMMAND.

(3) ISSUANCE OF SHARES TO GOH. ANTONIO ANDRE DID NOT UNDERSTAND THIS, ACCORDING TO PIERSON. UNDER CONTRACT (ART. 7) GOH HAD CHOICE OF 10 PERCENT OF CLASS A (NON-VOTING) SHARES OR CERTAIN MONETARY CONSIDERATION. DESPITE ALLEGED URGING OF PIERSON, GOH HAD NOT INDICATED ITS DECISION, AND DCI COULD NOT TAKE ACTION. WITH MATTER BEFORE COURTS, PIERSON FINALLY ISSUED 10 MILLION CLASS A SHARES TO PRESIDENT DUVALIER ON SEPTEMBER 1, 1973, SENT UNDER COVER OF LETTER DATED SEPTEMBER 18, 1973.

(4) ACCOUNTING OF EXPENDITURES. TO QUESTIONING, PIERSON MAINTAINED THAT ACCOUNTING WAS IN 18 MONTH PROGRESS REPORT. WHILE FIGURES WERE NOT BROKEN DOWN IN DETAIL OR CERTIFIED, PIERSON SAID UNLISTED FIRMS ARE NOT LIMITED OFFICIAL USE

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REQUIRED TO KEEP CERTIFIED RECORDS AND CONTRACT WITH GOH DID NOT MENTION CERTIFIED ACCOUNTING.

(5) LAND USE PLAN. PRELIMINARY LAND USE PLAN WAS PRESENTED TO HAITIAN OFFICIALS IN FEBRUARY 1972.

(6) ISSUANCE OF LICENSES PRIOR TO FORMATION OF FREEPORT AUTHORITY. PIERSON SAID THESE WERE ALL ISSUED SUBJECT TO FREEPORT APPROVAL.

(7) FORMATION OF FREEPORT AUTHORITY. PIERSON CLAIMED DCI NAMED ITS REPRESENTATIVES TO FREEPORT BOARD FROM THE VERY BEGINNING AND THERE WERE SEVERAL CHANGES IN ITS THREE SEATS OVER THE PERIOD. HE DENIED OBLIGATION TO APPOINT TRANSLINEAR TO BOARD (NOTE: APPARENTLY AN ISSUE

IN DCI-TRANSLINEAR TEXAS COURT CASE). HE CLAIMED HE HAD REPEATEDLY URGED GOH TO NOMINATE ITS TWO MEMBERS LONG

BEFORE SEPTEMBER 9, 1972 MEETING. (DEPT HAS ASKED FOR EVIDENCE OF THIS.) PIERSON CLAIMS THAT TEMPORARY IN-JUNCTION OF MARCH 9, 1973 REQUIRED DCI TO CALL FREEPORT BOARD MEETING, WHICH RESULTED IN ABORTIVE APRIL 1973 MEETING. (THE DECREE WOULD APPEAR TO CONFIRM AT LEAST THE FIRST PART OF HIS ALLEGATION.)

3. ADDITIONAL QUESTIONS (FROM PORT-AU-PRINCE 1602).

A. PIERSON ADMITTED HE OPENED NO OFFICE IN PORT-AU-PRINCE DURING THE PERIOD OF THE CONTRACT AND PLANNED HIS ONLY OFFICE ON TORTUGA. HE PERSONALLY CONDUCTED

BUSINESS OF DCI DURING HIS VISITS TO HAITI.

B. PIERSON HAD NO FULL-TIME EMPLOYEE IN PORT-AU-PRINCE. MERCERON IS HIS COUNSEL.

4. DEPT OFFICIALS TOLD PIERSON THERE APPEARED TO BE LITTLE PROSPECT FOR GOH TO REVALIDATE DCI CONTRACT AND THAT AT THIS POINT NO MEETING BETWEEN PIERSON AND HAITIAN AUTHORITIES SEEMED PROBABLE (SEE REFTELS). PIERSON REITERATED HIS REQUEST THAT HICKENLOOPER AND GONZALEZ AMENDMENTS BE APPLIED PROMPTLY. HE WAS IN-LIMITED OFFICIAL USE

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FORMED THAT SUCH ACTION APPEARED PREMATURE, THAT DEPT IS CONTINUING TO REVIEW LARGE FILE OF PAPERS CONCERNED WITH THIS CASE. RECOGNIZING HIS WISH FOR EARLY DECISION OFFICIALS AGREED TO MEET WITH HIM AGAIN ON SEPT 5. KISSINGER

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